



Responsible Brokers Are... Responsible!

Every January 1st, many Responsible Brokers around the state find themselves in the position of having one or more of their agents without an active license.

In some cases the agent did not renew his or her license and thus are completely unlicensed. In other cases, the agent did not renew his or her errors & omissions insurance or complete his or her continuing education requirements, either of which results in the license being placed on inactive status by the SDREC office.

Unfortunately, in an alarming number of these instances, the Responsible Broker in these situations is completely unaware that the agent does not have an active license and continues to allow that person to actively engage in real estate business.

It is the responsibility of the Responsible Broker to know, at all times, the license status of the agents that are associated with the brokerage firm. Not only can the licensee be disciplined for engaging in the practice of real estate without an active license, but the broker may face disciplinary action as well.

If an agent does not renew his or her license or the license is placed on inactive status for any reason, the broker must take the following steps **immediately**:

- 1) The license of the affected agent must be returned to the SDREC office.
- 2) Any listings of the affected agent must be transferred to either the broker or another agent within the office.
- 3) Any advertisements containing the affected agent's contact information or offers to perform real estate brokerage activity must be cancelled. This would include removing the affected agent's information from the brokerage firms' website.

It is also the duty of a Responsible Broker to contact the Commission office concerning improprieties of their agents. Issues such as misuse of trust account funds need to be reported as soon as the broker is aware of the situation.

The commission office has been sending citations to several licensees for not complying with license and/or E&O renewal requirements. The citations issued will be published in the SD Real Estate VIEW along with the disciplinary actions. Any questions regarding a licensee's status may be directed to the commission office.

Inside This Issue

From the Director
HUD/FHA Updates
EPA LBP Safe Work Practices Take Effect

Expired Licenses
Disciplinary Action
Appraiser's Update



From the Director's Desk

The majority of renewals are now in and the numbers are looking pretty good. As of January 31st, the actual number of renewals has exceeded the number anticipated in the Commission's budget. The number of brokers and broker associates renewed total 1,498 which is 14% over the budgeted amount.

Always with renewal, there are several licensees who failed to complete their continuing education, didn't renew their errors and omission's insurance or didn't bother to renew the license. In today's technology, it is very easy for the Commission staff to see if these licensees are actively practicing real estate. The Commission is taking a very serious approach to try to curtail the problem of licensees who engage in activities requiring a license but do not have an active license to do so. Therefore, I have been busy issuing Stipulations and Assurances of Voluntary Compliance pursuant to the Commission's citation program. I've also been issuing Stipulations on responsible brokers and restricted brokers who have failed to bring their audit exceptions into compliance.

Many real estate licensing agencies have gone to online license renewals. The South Dakota Real Estate Commission is hoping to be up and running with online renewal capabilities next year.

I've been receiving phone calls from licensees and disgruntled buyers regarding auctioneers who are advertising "Absolute" auctions when in fact there is a mortgage or some other reserve on the property. At the opening of the auction, they allegedly announce that they "just" found out the property has a lien on it and then set a reserve. Auctioneers who are doing this apparently aren't doing their due diligence when securing the listing and making sure what type of marketable title exists. To tighten up the loosely used term of "Absolute Auction", the Commission's

Auctioneer Task Force is revising auction forms and will be proposing administrative rules. It is the task force's goal to have drafts ready by early summer for licensee comment.

The 2010 Legislature is in full swing and of the bills currently moving through the House and Senate, none affect real estate licensing statutes.

Please watch for the Spring Caravan registration in the next newsletter. This is a Caravan you won't want to miss!

DjN



Commission Calendar

Commission Meeting
March 24 & 25 – Pierre

Spring Caravan Tentative Schedule

Tuesday, May 11 – Sioux Falls
Wednesday, May 12 – Sioux Falls
Thursday, May 13 – Watertown
Friday, May 14 – Aberdeen
Monday, May 17 – Pierre
Tuesday, May 18 – Spearfish
Wednesday, May 19 – Rapid City

Dates subject to change. Watch for registration information in the April/May issue of the SD Real Estate VIEW.

HUD Happenings

Temporary Waiver of FHA Flipping Rule – printed with permission of the Sioux Falls HUD Office

Effective for purchase contracts dated February 1, 2010, and for one year (unless changed by the FHA Commissioner), FHA has issued a temporary waiver of the flipping rule that prohibited the quick resale of properties using FHA insurance within 90 days of a previous sale.

To protect FHA borrowers against predatory practices of "flipping" where

properties are quickly resold at inflated prices to unsuspecting borrowers, this waiver is limited to those sales meeting the following general conditions:

All transactions must be arms-length, with no identity of interest between the buyer and seller or other parties participating in the sales transaction.

In cases which the sales price of the property is 20% or more above the seller's acquisition cost, the waiver will only apply if the lender meets specific conditions.

The waiver is limited to forward mortgages, and does not apply to the Home Equity Conversion Mortgage (HECM) for purchase program.

FHA Announces Policy Changes to Address Risk and Strengthen Finances

The Federal Housing Administration has announced a set of policy changes to strengthen the FHA's capital reserves, while enabling the agency to continue to fulfill its mission to provide access to homeownership for underserved communities.

Announced FHA policy changes:

1. Mortgage insurance premium (MIP) will be increased to build up capital reserves and bring back private lending.

2. Update the combination of FICO scores and down payments for new borrowers.

3. Reduce allowable seller concessions from 6% to 3%.

Increase enforcement on FHA lenders.

In addition to the changes proposed, the FHA is continuing to review its overall response to housing market conditions, and continuing to evaluate its mortgage insurance underwriting standards and its measures to help distressed and underwater borrowers through FHA/HAMP and other FHA initiatives going forward.

Updated Settlement Costs Booklet Published

The U.S. Department of Housing and Urban Development (HUD) recently issued a revamped version of its informational settlement costs booklet, now entitled *Shopping for Your Home Loan: HUD's Settlement Costs Booklet*.

RESPA requires lenders and mortgage brokers to give a copy of the booklet to consumers within three days of applying for a mortgage loan. The booklet incorporates the RESPA reform rules that took effect on January 1st and made major changes to the Good Faith Estimate (GFE) and HUD-1 Settlement Statement forms. Though aimed primarily at consumers, the booklet may also serve as a handy quick-reference tool for U.S. real estate regulatory jurisdictions that directly or indirectly tie licensee conduct standards to RESPA compliance.

Like its 1997 precursor, the new settlement costs booklet initially addresses basic consumer concepts such as "Are You Ready to Be a Homeowner?", "Shopping for a House", home purchase timelines, the roles played by attorneys and real estate brokers, terms of a sales agreements and information on affiliated business arrangements. But the bulk of the booklet is dedicated to an item-by-item discussion of the information required by the new GFE and HUD-1 forms. The redeveloped GFE and HUD-1 forms contain numerous changes designed to provide consumers with the ability to comparison shop for loans and ensure that the terms to which they originally agreed are the same as the final loan terms.

The changes that were made to the new HUD-1 form are not as extensive as those made to the GFE. Nonetheless, real estate industry licensees and other stakeholders need to be familiar with the new look and organization of the form, as well as changes to items such as amounts payable in connection with a loan, reserve deposits, title charges and government recording and transfer charges. Notably, the third page of the HUD-1 is made up of two new sections: the Comparison Chart and the Loan Terms section. The Comparison Chart helps consumers to compare the exact charges disclosed on the GFE with the exact charges listed on the HUD-1, and distinguishes the change tolerances permitted by the new RESPA rules. The Loan Terms section is intended to ensure that the loan applied for is the same as the loan received at settlement.

Interested persons also may wish to review the extensive information that is available through HUD's RESPA Home Page. Available materials include the new

booklet, updated RESPA FAQ's, the final RESPA rules, including the formal regulations explaining how the forms are to be completed, and a fillable GFE and HUD-1.

New Licensees

Broker

Aanenson, Debra F – Luverne, MN
Baker, Kathy M – Sioux City, IA
Candelaria, Chris – Aztec, NM
Dougherty, Travis J – O'Neill, NE
Duffy, Elizabeth A – Sioux Falls
Haugard, Steven G – Sioux Falls
Kennedy, Craig A – Yankton
Knoff, David D – Yankton
Orke, Donald N – Plymouth
Swenson, Kirk E – Mantorville, MN
VanDerWerff, James R – Plattsmouth, NE

Broker Associates

Baedke, Jami R – Vermillion
Barber, John C – Pierre
Butts, Alan R – Bismarck, ND
Cales, Elizabeth A – Rapid City
Erck, John R – Mitchell
Fisher, Dana L – Sioux Falls
Galbavy, Danielle B – Aurora
Hanson, Corey J – Sioux Falls
Heiberger, Pamela L – Hermosa
Jansa, Ryan P – Sioux Falls
Kuchenbecker, Nicole R – Rapid City
Lefers, Keith – Lennox
Lefers, Leanne K – Lennox
Pfeiffer, Justin L – Sioux Falls
Pitts, Jeffrey C – Sioux Falls
Snyder, Kayla R – Sioux Falls
Thune, Amanda M – Rapid City
Travis, Donna M – Platte
Van Roekel, Dave – Sioux Falls

Property Manager

Allgauer, Kristen L – Box Elder

Residential Rental Agent

Beninga, Cheryl L – Brookings
Bjornebo, Jody A – Sioux Falls
Cook, Betty J – Hamill
Johnson, Amy B – Beresford
Limoges, Erica L – Renner
Moen, Jodi L – Sioux Falls
Renkly, Traci R – Volga

Registered Home Inspector

Aday, Ryan E – Ortonville, MN
Stokes, Warren D – Arlington
Zolnowsky, James E – Harrisburg

Disciplinary Action

The following disciplinary actions have become effective since the last report in the newsletter. A Stipulation and Assurance of Voluntary Compliance is a settlement agreement between licensees and the Real Estate Commission and constitutes neither an admission nor a denial of any violation.

Cleo Penfield, Lemmon, Broker. Stipulation and Assurance of Voluntary Compliance. Voluntary surrender of real estate license and costs of \$930.00. Alleged violation of SDCL 36-21A-71(11);(14) and (32) for failure to comply with the audit process.

South Dakota Real Estate VIEW

Official Publication of the
South Dakota Real Estate Commission
221 West Capitol Ave., Suite 101
Pierre, South Dakota 57501

Telephone: 605-773-3600
Facsimile: 605-773-4356
Website: www.state.sd.us/sdrec
E-mail: dr.ralestate@state.sd.us

Editor-in-Chief: Dee Jones
Noordermeer
Editor: Karen Callahan

THE COMMISSION AND STAFF

Dennis Eisnach, Chairperson Pierre
Paula Lewis, Vice-Chair..... Rapid City
Charles Larkin, Member Watertown
Eileen Fischer, Member Fort Pierre
Brian Jackson, Member..... Sioux Falls
Dee Jones Noordermeer,
Executive Director Pierre
Karen Callahan,
Education Director Pierre
Norma Schilling, Licensing Pierre
Michelle Metzinger, Auditor..... Pierre
Angela Hagena, Auditor..... Sioux Falls

Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because they may be of interest to the readers.



In Memoriam

The SD Real Estate Commission extends its sincerest sympathy to the families and friends of the following who recently passed away:

Richard Roby, Watertown

Property Managers: EPA's Lead-Based Paint Safe Work Practices Take Effect in April

The Lead-Based Paint Renovation, Repair and Painting Program is a federal regulatory program affecting contractors, property managers, and others who disturb painted surfaces. It applies to residential houses, apartments, and child-occupied facilities such as schools and day-care centers built before 1978.

Training, certification and work practice requirements that become effective after April 22, 2010 may affect residential rental property owners/managers, general contractors, and special trade contractors, including painters, plumbers, carpenters and electricians.

The EPA has developed a handbook for property managers and maintenance personnel. The *"Small Entity Compliance Guide to Renovate Right"* is available in pdf format from the EPA website at www.epa.gov.

Postlicensing Education Requirements – Reminder for New Broker Associates

New broker associates who were initially licensed on or after July 1, 2009 are reminded that they must complete the first 30 hours of the postlicensing

requirements by the end of their first licensing period. The postlicensing requirements for the first licensing period are 6 hours in each of the following areas: 1) Agency, 2) Contracts, 3) Fiduciary Duties/Trust Accounting, 4) Business Planning, and 5) Ethics/Professional Liability.

A list of courses approved for postlicensing education plus more information on this requirement may be found at the commission website at www.state.sd.us/sdrec - click on "Education".

Postlicensing education requirements only apply to broker associates initially licensed on or after July 1, 2009. Broker associates licensed before this date only need to comply with the existing continuing education requirements of 24 hours each license period.

Non-Renewals

The following licenses expired on December 31, 2009 and have not been renewed as of February 20. Active/Inactive designations indicate the license status on the day of expiration. If the license of an active firm or active qualifying broker is not renewed, all licenses hanging in that office must be returned to the Commission office. If your name appears on the list in error or you wish to reinstate the license, please contact the Commission office.

Active Auctioneers

Bergdale, Bernard L – Alcester
Fox, Darwin L – De Smet
Fox, John W – Iroquois
Jark, Kenneth R – Aberdeen
Pratt, David W – Watertown

Active Broker Associates

Bures, Dawn M – Wagner
Clarke, Patricia A – Madison
Connot, Benjamin L – Crooks
Converse, Melissa L – Watertown
Culbertson, Jay S – Rapid City
Fox, Darwin L – De Smet
Geissler, Paul P – Rapid City
Hawe, Larry E – Fort Collins, CO
Hyde, Brady C – Sioux Falls
Lalim, Kyle A – Watertown
Magera, John E – Sioux Falls
Paulson, Julie – Gayville
Peschong, Marilyn – Mitchell

Rothschadl, Donald L – Tyndall
Smith, Robert L – Dell Rapids
Swathanthirarajan, Hema – Sioux Falls
Tolmachoff, Geoffrey M – Ft. Collins, CO
Tschetter, Craig W – Spearfish
Utech, Victor M – Deadwood
Walker, Holly A – Tea
Wylie, Donald A – Sioux Falls

Active Brokers

Aasal, Mary J – Fort Lauderdale, FL
Anderson, Cleo L – Yankton
Brooks, Robert L – Brookings
Cassidy, Carol E – Valley Springs
Chapman, Mary F – Sioux City, IA
Clarke, DeWayne R – Madison
Collins, Lyle E – Sturgis
Craycraft, Joanne C – Nashville, TN
Dunbar, Robert S – Marine on St. Croix, MN
Fitzloff, Alma P – Maple Grove, MN
Fjelland, Chad G – Clark
Frieman, Michael R – Denver, CO
Gee, Robert B – Estherville, IA
Glasford, Tara L – Sioux Falls
Glover, J. Harvey – Burke
Good, April L – Long Pine, NE
Grady, Gilbert D – Lincoln, NE
Greteman, David M – Carroll, IA
Grubaugh, Rick C – Columbus, NE
Gruseth, Donald J – Volga
Hageman, Stephanie M – Akron, IA
Hageman, Wayne E – Hot Springs
Hammontree, Pamela S – Seymour, TN
Hegge, Marvin L – Niobrara, NE
Helm, Robert W – Jackson, WY
Hill, Arne A – Blaine, MN
Holm, Carol J – Brookings
Howie, Gordon K – Rapid City
King, Lowell E – Bardwell, KY
Kjerstad, James F – Wall
Koedam, David L – Doon, IA
Koster, James A – Watertown
Kvenild, J R – Casper, WY
Lamp, Jesse – Watertown
Laudonia, Anthony T – Cos Cob, CT
Lee, Alice M – Rapid City
List, Mary Lou – Yankton
Magness, Bradley J – Huron
Marreel, Joel W – Hooper, NE
Masselink, Chan B – Sioux Falls
McFarland, Jr., David C – Marshall, MN
Mercer, James A – Billings, MT
Morgan, Ricard J – Sioux City, IA
Odenbach, Scott J – Spearfish
Paxton, Sonya – Stuart, NE
Pearson, John D – Buffalo, WY
Penfield, Cleo V – Lemmon

Pottorff, Cleo A – Sioux City, IA
Rich, Stanley W – Sioux City, IA
Sandvig, James F – Aberdeen
Scheele, James L – Huron
Seward, Jim D – Belle Fourche
Solay, Kurt E – Rapid City
Stewart, Leo E – Sturgis
Swanson, Charles L – Falcon Heights, MN
Tate, Elaine H – Hixson, TN
Tierney, Martha C – Overland Park, KS
Trautman, Clyde W – Fargo, ND
Valnes, Gary D – Sisseton
VanderTop, Gary W – Woodstock, MN
Vaske, James H – Surprise, AZ
Welstead, Robert L – Elkhorn, NE
Wennberg, Floyd E – Belle Fourche
West, Randy L – Watertown
Wheelihan, John P – Ellendale, ND
Woelk, William E – Colorado Springs, CO
Wright, Lucille B – Rapid City

Active Home Inspectors

Black, Thomas E – Aberdeen
Blake, Kennard L – Madison
Gaffrey, Matt K – Beresford
Grogan, Gerald J – Black Hawk
Norton, Perry – Box Elder
Worthington, Tate – Harrisburg

Active Property Managers

Andersen, Linda K – Vermillion
Belden, Lisa – Sioux Falls
Chancellor, Harriet W – Watertown
Fox, Darwin L – De Smet
Heida, Lisa – Rapid City
Koch, Theresa L – Mitchell
Mayclin, Cleone – Rapid City
Pokorney, Myrna V – Rapid City
Smith, Louise B – Mitchell
Weiss, Connie J – Black Hawk
Wylie, Donald A – Sioux Falls

Active Residential Rental Agents

Anderson, Sharon K – Sioux Falls
DeJong, Kelli – Canton
Henderson, Scott A – Sioux Falls
Johnson, Jeannine M – Sioux Falls
Piper, Sandra D – Sioux Falls
Struckman, KaCey – Sioux Falls
Timmons, Paula M – Sioux Falls

Active Salespeople

Beaulieu, Kenneth L – Sioux City, IA
Clark, James R – Sioux City, IA
Fernholz, Brian S – Madison, MN
Filips, Kelly J – Crofton, NE

French, Larry L – Athens, AL
Macke, Patrick J – Carroll, IA
Morris, Cody L – Canby, MN
Reesnes, Philip A – Plymouth, MN
Silva, Stefanie E – Sioux City, IA
Traver, Amy D – Hinton, IA
Tucker, Lacosta J – Strawberry Plains, TN

Active Timeshare Agents

Derosier, Linda J – Deadwood
Kilpatrick, Terry A – Rapid City
Rafuse, James L – Rapid City
Rodriguez, Domico – Rapid City

Inactive Auctioneers

Cameron, Douglas O – Wilmot
Dartt, Eddie L – Wall
Larson, Boyd – Spearfish
Thompson, Leon – Beresford
Weishaar, Wayne A – Lemmon
Wingler, Gerry B – Sioux Falls

Inactive Brokers

Anderson, Raymond L – Rapid City
Balding, Gary L – Mitchell
Bergan, Eugene B – Harlingen, TX
Berglin, Darrel K – Sioux Falls
Boeckenhauer, Kurtis L – Sioux City, IA
Botsford, John V – Grand Forks, ND
Botts, John F – Black Hawk
Bowen, Craig C – Mankato, MN
Brewer, Steven E – Omaha, NE
Briney, Sharon L – Rapid City
Buysman, Steve J – Sioux Falls
Crabtree, Carole F – Brunswick, NE
Dafnis, James R – Aberdeen
DeVaney, Barbara L – Sioux Falls
Dulas, Michael B – Marshall, MN
Eliason, Earl A – Rapid City
Fitzgerald, John H – Saint Onge
Fortak, Werner H – Spearfish
Fox, Y. Alexander – Omaha, NE
Frykman, Nancy L – Edina, MN
Fuller, Loretta J – Belle Fourche
Golebiewski, Artur M – Des Moines, IA
Hamaty, Jr., Nicholas – Independence, MN
Hamilton, Judith A – Sioux Falls
Hanson, Suzanne F – N. Sioux City
Hass, Ardis J – Rapid City
Hedrick, Renee E – Colorado Springs, CO
Horner, Leo A – Kingman, AZ
Just, Terry L – Sisseton
Kipp, Eugene W – Rapid City
Kouri, Lon J – Sioux Falls
Kudrna, Richard – Sioux City, IA
Larson, Robert T – Mobridge

Lillibridge, John L – Burke
Lohmann, Lori V – Rockford, MN
Loosbrock, Rocky J – Brandon
MacDonnell, James M – Denver, CO
Malimanek, Laurie A – Watertown
McMurchie, Barbara J – Sioux Falls
Metcalf, Douglas D – Brandon
Musick, Lindell L – Mitchell
Nelson, Dennis L – S. Sioux City, NE
Nussbaum, Margaret J – Garretson
Olson, Wayne A – Sioux Falls
Panning, Lawrence H – Humboldt
Parliament, Larry D – Florence
Pelly, Kathleen J – Rapid City
Pibal, Jr., Wayne E – Yankton
Reuppel, Lawrence R – Spearfish
Rogers, J. Pat – Sioux Falls
Ruff, Spencer R – Sioux Falls
Schick, Milbert W – Eureka
Schneck, Richard A – Clinton, MN
Sealey, Ivadell M – Ortonville, MN
Shepherd, Greta E – Fairburn
Skaff, Barbara L – Sioux City, IA
Spangler, Jon R – Senoia, GA
Steiner, Kenneth F – Rapid City
Sutton, Earle G – Rapid City
Swanhorst, Kayleen M – Cresbard
Wendell, Rose Marie – Custer
Whiting Lutz, Mary J – Sturgis
Wright, Randall E – Pierre
Zacher, Richard – Eagle Butte

Inactive Broker Associates

Aesoph, Levi – Brookings
Alderson, Nicholas A – Lancaster, WI
Anderson, Brittany J – Sioux Falls
Anderson, Casey J – Tea
Anderson, Chad A – Luverne, MN
Arnold, Deborah S – Watertown
Aumann, Peter S – Houston, TX
Bicknase, Sarah L – Sioux Falls
Billars, Tom – Sioux Falls
Boersma, Scott K – Clear Lake
Booth, Robert E – Milford, IA
Brick, Calli M – Sioux Falls
Buri, Melissa A – Sioux Falls
Burns, Candace – Rapid City
Cady, Steven P – Sturgis
Carlsgaard, Erik L – Aberdeen
Crichton, Sr., Larry D – Larchwood, IA
Cruz, Trudie H – Sioux Falls
Dale, Georgia D – Rapid City
Dather-Schelling, Rhonda – Brandon
DeGroot, Alicia R – Sioux Falls
DeMers, Taryn D – Rapid City
Donnell, Andrew B – Hot Springs
Drake, Brad A – Watertown
Drysdale, Sarah M – Rapid City

Dunham, Scott A – Sun City, AZ
 Eisentraut, Rachel M – Olathe, KS
 Estwick, Darla K – Watertown
 Ferwerda, Harlan D – Springfield
 Fillingier, Sandra J – Newcastle, WY
 Fischer, Ryan C – Spearfish
 Freese, Lesly A – Belle Fourche
 Gallagher, Patrick D – Spearfish
 Goodine, Faith, Copperopolis, CA
 Hall, Donald P – Rapid City
 Hanson, Christy M – Sioux Falls
 Heil, Jodi E – Sioux Falls
 Hepper, Jamie M – Saint Onge
 Herbst, Joseph T – Excelsior, MN
 Hill, Dodee M – Rapid City
 Himrich, Robert D – Sioux Falls
 Island, Daniel P – Monument, CO
 Iwan, Lanny K – Rapid City
 Jacobs, Donna R – Waconia, MN
 Jacobson, David J – Watertown
 Jensen, Sabrina M – Spearfish
 Johnson, Andrew D – Rapid City
 Johnson, April A – Sioux Falls
 Johnson, Scott D – Pierre
 Karinen, Audrey – Littleton, CO
 Kary, Brittnee L – Rapid City
 Kerkvliet, Douglas J – Custer
 Klug, Wayne B – Rapid City
 Konrad, Robert T – Tripp
 Koska, Dustin A – Faulkton
 Kubo, Ryan J – Lincoln, NE
 Kurtenbach, Robbi W – Sioux Falls
 Lockhart, Charles W – Sioux Falls
 Lohre, Elizabeth A – Brandon
 Mahowald, M. Colette – Watertown
 Marshall, Carisa L – Rapid City
 McNally, Kelley L – Concord, CA
 Muenster, Theodore “Ted” – Vermillion
 Mulder, Kristin M – Hardwick, MN
 Munce, Tash A – Sioux Falls
 Nelson, Kella S – Volga
 Nordby, Leland “Lon” O – Rapid City
 Norton, Diane M – Boise, ID
 OBrien, Lori L – Hayden, ID
 Olson, Ann G – Wentworth
 Olson, Lauren K – Volga
 Owen, Sue E – Rapid City
 Pallatto, Barbara J – Rapid City
 Petersen, Jr., Scott C – Sioux Falls
 Petty, John P – Rapid City
 Powell, Jason D – Spearfish
 Redlinger, Lori A – Watertown
 Rinehart, Neal – Sioux Falls
 Roberts, Heidi L – Sioux Falls
 Rogers, Karen R – Rapid City
 Ronsiek, Jeff – Okoboji, IA
 Rypkema, Ryon – Caputa
 Sandberg, Suzette – Cadiz, KY

Santana, John – Rapid City
 Schroedermeier, Myra A – Lead
 Simmons, Donna J – Brandon
 Stone, Benjamin E – Sioux Falls
 Stone, Graham G – Rapid City
 Stratmeyer, Randi B – Sioux Falls
 Swango, II, James – Rapid City
 Thaelke, Jackie K – Sioux Falls
 Underberg, Kimberly K – Sioux Falls
 Usera-Opstedahl, Pamela Y – Spearfish
 Von Behren, Carol M – Sioux Falls
 Weaver, Heidi R – Rapid City
 Wedin, Melinda A – Aberdeen
 Wilson, Jean E – Renner
 Zvolanek, Holly J – Rapid City

Inactive Home Inspectors

Hoefert, Lonnie – Sioux Falls
 Martin, Duane E – Mobridge
 Moross, Ronnie L – Sturgis

Inactive Property Managers

Acree, Michael – Webster
 Devlin, Anne M – Hill City
 Jones, David G – Brookings
 Kwasniewski, Pamela M – Watertown
 Martin, Lahra F – Sioux Falls
 Olson, Dustin – Sioux Falls
 Wheeler, Trina – Piedmont

Inactive Residential Rental Agents

Avair, Mary H – Harrisburg
 Burnette, Shirley J – Mission
 Cain, Katie B – Sioux Falls
 Cain, Wendy A – Rapid City
 Dougherty, Carmen J – Valley Springs
 Edwards, Amber L – Sioux Falls
 French, Janice D – Fairburn
 Haverhals, John – Sioux Falls
 Knutson, Katie L – Brookings
 Livingston, Mandy M – Watertown
 Moore, Bryan – Sioux Falls
 Murray, Mathew S – Rapid City
 Pena, Lucille R – Mission
 Rapp, Nicole M – Pierre
 Renquist, Tashina J – Sioux Falls
 Schulte, Lori L – Brookings
 Smith, Kristen L – Sioux Falls
 Strang, Brittany R – Hamilton, NY
 Weller, Kyle R – Spearfish
 Wesche, Julie A – Brookings
 Williams, Terry L – Sioux City, IA

Inactive Salespeople

Addison, Deborah K – Hartington, NE
 Bircherm, George M – Rosholt
 Blenner, William R – Rapid City
 Brandvold, Donna L – Sioux City, IA

Calvillo, Keri M – Sioux City, IA
 Cameron, Douglas O – Wilmot
 Christensen, Dale V – Watertown
 Cota, Raymond P – Sioux City, IA
 Dale, Ricker H – Callaway, NE
 Dewey, Patricia A – Rapid City
 Dobbs, Jennifer A – Sioux City, IA
 Doren, Angela R – Hinton, IA
 Erck, Judy K – Rapid City
 Fink, Barbara J – Lennox
 Fitzgerald, Donald E – Spearfish
 Geise, Angela M – Sioux Falls
 Goth, Rodney W – Madison
 Greenberg, Marvin J – Fargo, ND
 Hansel, Lisa L – Sioux City, IA
 Heyer, Susan K – Marion
 Hofer, Ednamae – Huron
 Jons, Henry G – Sioux City, IA
 Just, Janet L – Sisseton
 Kelley, Barbara A – Hawarden, IA
 Kirlin, Ray F – Sioux Falls
 Kirwan, Edward P – Sioux City, IA
 Kluender, Linda A – Edgemont
 Kwasniewski, Pamela M – Watertown
 Lambert, Daniel J – Sioux Falls
 Larsen, Michael L – Madison
 Leonard, Merry C – Rapid City
 Matson, Terryl M – Spearfish
 McCaskell, Donald G – Huron
 Murphy, Roberta J – Palmyra, VA
 Nelson, Barbara A – Brookings
 Perault, Michael D – Belvidere
 Quade, Connie M – Sioux City, IA
 Rasmussen, Jacqueline K – Sioux City, IA
 Roth, John B – Sioux Falls
 Rysavy, Thomas M – Sioux Falls
 Snow, James Brian – Henderson, KY
 Swenson, Dale V – Woonsocket
 Tennyson, Michael E – Custer
 Todd, Sarah R – Bolivar, OH
 Tveit, James L – Ellendale, ND
 Wingler, Gerry B – Sioux Falls
 Winter, Michael D – Luverne, MN

Inactive Timeshare Agents

Bulley, Alicia – Sioux Falls
 Derosier, Darin J – Deadwood
 Mixer, MacKenzie – Casper, WY



APPRAISER UPDATE

Appraiser Certification Program Mission–Purpose–Intent

The Appraiser Certification Program was implemented July 1, 1990, pursuant to enactment of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) by Congress. The mission of the Program is to certify, license and register appraisers to perform real estate appraisals in the state of South Dakota pursuant to Title XI (FIRREA). The purpose of the Program is to examine candidates, issue certificates, investigate and administer disciplinary actions to persons in violation of the rules, statutes and uniform standards, and approve qualifying and continuing education courses. Title XI intends that States supervise all of the activities and practices of persons who are certified or licensed to perform real estate appraisals through effective regulation, supervision and discipline to assure their professional competence.

Appraiser Certification Program Advisory Council

Council members provide recommendations to the Secretary of the Department of Revenue and Regulation in the areas of program administration in order to sustain a program that is consistent with Title XI. The Council meets quarterly in public forum. See the Website for meeting information. www.state.sd.us/appraisers

USPAP Q & A

Vol. 11, No. 12, December 2009

Revision of Previously Published (April 2009) Q&A:

In April 2009, the ASB published Q&As following the adoption of the changes to USPAP for 2010-11. These Q&As specifically addressed the new disclosure requirement within the Conduct section of the ETHICS RULE.

The response to Question 4 in the April 2009 Q&A publication has been revised to more clearly convey the ASB's guidance regarding application of this new requirement. The question and the revised answer are included below, with deletions shown in strikethrough text and additions shown in underlined text. These changes will also be reflected in the April 2009 edition of the Q&As on The Appraisal Foundation's website.

April 2009 – (revised December 2009)

Question 4: Some of my best clients require me to keep all information regarding any assignments that I perform for them confidential. The Comment states, in part, "If an appraiser has agreed with a client not to disclose that he or she has appraised a property, the appraiser must decline all subsequent assignments that fall within the three-year period". Will this prevent me from appraising a property for a different client during that three-year period?

2010 USPAP Q&A, Issue Date: January 5, 2010

EDITORIAL NOTE: Beginning with this edition, the ASB will be publishing

USPAP Q&As on an "as needed" basis rather than monthly basis. With each publication, the individual questions and responses will have a numeric reference associated with the year and order of their publication.

For example, the five Q&As being published in this edition will be identified as numbers 2010-01 through 2010-05. The Q&As will continue to be compiled and placed in the appropriate topic areas of the *Frequently Asked Questions* section of each subsequent edition of USPAP, when relevant.

For the reader's current benefit, each Q&A published under the new numbering system will be listed with the specific section where it would be placed in the *Frequently Asked Questions* section of the next edition of the USPAP document. For example, each Q&A in this particular issue will appear in the section titled "ETHICS RULE – CONDUCT."

2010-01: ETHICS RULE – CONDUCT
Disclosure of any prior services regarding the subject property, when an appraiser has appraised the property multiple times.

Question: If I have appraised a property multiple times within the previous three years, do I have to disclose the *number* of appraisal services? (e.g., "I have appraised the subject property three times during the previous three years.")

2010-02: ETHICS RULE – CONDUCT
Disclosure of any prior services regarding the subject property, when an appraiser has performed services other than appraisal practice.

Question: If I have performed a service other than appraisal practice, such as acting as a general contractor within the prior three years, do I have to describe the specific service or merely state a service was performed?

2010-03: ETHICS RULE – CONDUCT
Disclosure of any prior services regarding the subject property before accepting an assignment, when the client had previously required an appraiser to sign a confidentiality agreement.

Question: The Comment to the Conduct section of the ETHICS RULE states, in part, "If an appraiser has agreed with a client not to disclose that he or she has appraised a property, the appraiser must decline all subsequent assignments that fall within the three-year period." Does this really mean that the appraiser could not be engaged by this same client, on this property, within the three-year period?

2010-04: ETHICS RULE – CONDUCT
Disclosure of any prior services regarding the subject property before accepting an assignment, when the appraiser only works for one client.

Question: I am a staff appraiser for a company and only complete appraisals for my employer's (the company's) internal use. Am I required to inform the company that I have previously completed an appraisal within the three-year period when the company is already aware of it?

2010-05: ETHICS RULE – CONDUCT
Disclosure requirements when an appraiser has NOT performed services regarding a property in the prior three years.

Question: I am aware of the new disclosure requirements in the Conduct section of the ETHICS RULE for the 2010-11 edition of USPAP that requires me to disclose any services I performed regarding the subject property within the prior three years. If I have *not* performed any such services, am I required to make that disclosure as well?

Answers to the above questions can be found at: www.appraisalfoundation.org.

[For further information regarding USPAP Q&As contact The Appraisal Foundation at: www.appraisalfoundation.org]

New Licensees – Dec. 2009/Jan. 2010

Brandon S. Woudstra, State-Registered – Rock Valley, IA

Lloyd Dickinson, State-Certified General – Omaha, NE

Mary Houk, State-Registered – Rapid City, SD

Information Regarding Disciplinary Actions

Public information regarding disciplinary action taken against an appraiser is available upon written request to the Dept. of Revenue and Regulation, Appraiser Certification Program, 445 E. Capitol Ave., Pierre, SD 57501 or e-mail – Sherry.Bren@state.sd.us. Include in the request for information the name of the appraiser and the appraiser's city and state of residence. (Disciplinary action may include denial, suspension, censure, reprimand, or revocation of a certificate by the department. (ARSD 20:14:11:03))

Anonymous Complaints

ARSD 20:14:11:01.01. Anonymous complaints. Initiation of an investigation may be commenced upon receipt of an anonymous complaint if it meets the following criteria:

(1) The allegations of violations of any provision of this article are considered credible and based upon factual information which is independently verifiable; and

(2) The complaint is accompanied by a copy of the appraisal report or other documents which contain clearly identifiable errors or violations of the provisions of this article.

Review of Cases – 01/01/09 – 01/19/10

For the period 01/01/2009 through 01/19/2010, the Department has received 17 upgrade applications and initiated 13 complaint investigations.

Upgrades – 9 issued; 6 pending; and 2 agreed disposition.

Complaints – 3 pending; 9 final disposition; and 1 dismissed (no action warranted)

Upgrades – Nov./Dec. 2009

Jim Lammers,	State-Certified Residential
Sheila Gregg,	State-Certified Residential
Ryan Mohr,	State-Certified Residential

Appraiser Qualifications Board Q&A

The Appraiser Qualifications Board (AQB) of The Appraisal Foundation establishes the minimum education, experience and examination requirements for real property appraisers to obtain a state certification. The AQB Q&A is a form of guidance issued by the AQB to respond to questions raised by appraisers, enforcement officials, users of appraisal services and the public to illustrate the applicability of the Real Property Appraiser Qualification Criteria and Interpretations of the Criteria in specific situations and to offer advice from the AQB for the resolution of appraisal issues and problems. The AQB Q&A may not represent the only possible solution to the issues discussed nor may the advice provided be applied equally to seemingly similar situations. AQB Q&A does not establish new Criteria. AQB Q&A is not

part of the Real Property Appraiser Qualification Criteria. AQB Q&A is approved by the AQB without public exposure and comment.

Vol. 1, No. 2 – December 2009

Exam Preparedness When Changing a Credential

Question: I hold a Certified Residential credential, which I obtained prior to the implementation of the 2008 Real Property Appraiser Qualification Criteria and now I plan to pursue a Certified General credential. The Criteria indicate I am required to successfully complete 100 additional hours of Qualifying Education. Will these additional hours make me qualified to pass the National Uniform Licensing and Certification Examination for the Certified General Classification?

College Degree or In Lieu Education Required When Changing a Credential

Question: I hold a Certified Residential credential and now I plan to pursue a Certified General credential. How can I fulfill the College Degree or Coursework “in lieu of” the degree requirement specified in the Real Property Appraiser Qualification Criteria?

Education in Lieu of a College Degree

Question 1: I have completed a 3 hour pre-licensure Real Estate Law course at a local community college. Does this count toward the required “Business or Real Estate Law” course required in lieu of a college degree?

Question 2: I do not hold a college degree, but I have taken courses from a degree-granting college/university. How do I know if the courses I have taken satisfy the in lieu of education required by the Real Property Appraiser Qualification Criteria toward the Certified Residential or Certified General classifications?

Question 3: The Real Property Appraiser Qualification Criteria requires a “Business or Real Estate Law” course (among other courses) in lieu of a college degree as college education for the Certified Residential and the Certified General credentials. Does this mean any course in “Business” or a specific course in “Real Estate Law” or does this mean a specific course in “Business Law” or a specific course in “Real Estate Law”?

Question 4: The Real Property Appraiser Qualification Criteria lists seven (7) courses totaling 21 hours of education in

SOUTH DAKOTA Real Estate VIEW 8

lieu of an Associate degree as college education for the Certified Residential credential. Can I take 15 semester hours of one subject matter course (i.e. "Statistics") and one hour each of the other six (6) required subject areas and still satisfy the 21-hour requirement?

Answers to the above questions can be found at: www.appraisalfoundation.org.

Dept. of Revenue & Regulation Appraiser Certification Program

Administrative Rule Changes for ARSD 20:14 Effective January 11, 2010

ARSD 20:14:04:17(b). Responsibilities of the supervising appraiser. If a state-registered appraiser has more than one supervising appraiser, all of the personal inspections of each of the supervising appraisers may be totaled to meet the minimum personal inspections required by this subsection. [Personal inspections are the collective total of all of a state-registered appraiser's supervising appraisers.]

ARSD 20:14:05:07.02. Educational requirements for state-certified residential appraiser. Each collegiate level subject matter course submitted in lieu of a degree must be the equivalent of 3 semester credit hours.

ARSD 20:14:11:03(22). Grounds for disciplinary action. Voluntary surrender of a certificate or license in lieu of disciplinary action by another state or jurisdiction is grounds for disciplinary action.

ARSD 20:14:13:01. Continuing education requirements. An applicant for renewal of a certificate or license must successfully complete the most current edition seven-hour National Uniform Standards of Professional Appraisal Practice Update course prior to June 30 of each even-numbered year. [For the 2011 renewal cycle the applicant must have completed the 2010-2011 7-hour National USPAP Update course between January 1, 2010 and June 30, 2010.]

ARSD 20:14:13:14. Course evaluation. Course providers shall provide each student with a course evaluation form upon completion of the

course and shall tally the results of the evaluation forms onto one form. The course provider shall send the completed course evaluation forms and the tally to the secretary with 15 days of the course completion.

Five Changes in the 2010-2011 USPAP You Should Know About

[The Appraisal Institute granted the Department permission to reprint the following Valuation Magazine, 4th Quarter 2009 article by Gregory J. Accetta, MAI]

The 2010-2011 Uniform Standards of Professional Appraisal Practice will be effective on January 1, 2010. There are several changes this time around, including significant revisions to the Ethics Rule, Competency Rule, Jurisdictional Exception Rule and Standard 3. As a former Chair of the Appraisal Standards Board, here are five changes I wanted to point out in particular:

Prior Assignment Disclosure

- An appraiser must disclose to the client and in the Report Certification any services regarding the subject property provided as an appraiser or in any other capacity during the three years prior to accepting a new assignment. (Management Section of the Ethics Rule)

- The disclosure must be made prior to acceptance or upon discovery.

- Disclosure does not require identification of the prior client or appraisal results.

- The disclosure to the client must be documented in the appraiser's workfile.

- This is not a prohibition against reappraising a property.

- **Why this is important:** This is a new requirement! The disclosure will allow a prospective client to know, at the time of the assignment, whether the appraiser is performing, or has performed other services with regard to the property, such as property management, leasing, brokerage, auction or investment advisory services. This will allow the client to determine potential conflicts, if any. The client should have an opportunity to evaluate this information before the appraiser is engaged.

- **What you need to do:** Be sure to notify clients when necessary and make the appropriate disclosure in the Certification. For example: "I have appraised this property in the three years prior to accepting this assignment."

Use of an Appraiser's Signature

- An appraiser can authorize the use of his or her signature to certify recognition and acceptance of his or her USPAP responsibilities. (Management Section of the Ethics Rule)

- An appraiser may authorize the use of his or her signature only on an assignment by assignment basis.

- An appraiser must not affix the signature of another appraiser without his or her consent.

- An appraiser must exercise due care to prevent unauthorized use of his or her signature. An appraiser exercising such care is not responsible for unauthorized use of his or her signature.

- The language that a signature is a digitized image controlled by a personal identification number, or other media, where the appraiser has sole personal control of affixing the signature was eliminated from the Definitions section.

- **Why this is important:** The use of signatures has been a heated topic with lots of misunderstandings. The change seeks to clarify and establish requirements for appropriate management of an appraiser's signature. On a practical basis, appraisers are not in violation of USPAP if their electronic signature is misappropriated when the appraiser has used due care to protect the signature image.

Workfile Access and Retrieval

- An appraiser having custody of a workfile must allow other appraisers with workfile obligations related to the assignment appropriate access and retrieval. Specifically covered is access and retrieval for submission to state appraiser regulatory agencies; compliance with due process of law; submission to a duly authorized professional peer review committee; or compliance with retrieval arrangements. (Record Keeping section of the Ethics Rule)

- **Why this is important:** The change clarifies that appraisers must cooperate with other appraisers who participated in the assignment, including trainees, to allow workfile access. This is a big deal for appraisers who leave an office

and need old files. The obligation to allow the client access to the workfile for a Restricted Use Appraisal Report was removed from the Record Keeping section of the Ethics Rule.

- **Why this is important:** While seldom exercised, clients have the right to your files when you prepare a Restricted Use Appraisal Report. However, this requirement was removed because the client access to the workfile is unnecessary in light of the existing requirement that all appraisal reports contain sufficient information to enable the intended users of the appraisal to understand the report properly.

Competency Obligations Specified

- Competency requires
 - i. the ability to properly identify the problem to be addressed;
 - ii. the knowledge and experience to complete the assignment competently; and
 - iii. recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment. (Competency Rule)
- If the assignment cannot be completed competently, the appraiser

must withdraw from the assignment. (The appraiser can still use personal study, association with an appraiser, or retention of others to acquire necessary competency.)

- **Why this is important:** The changes make explicit some of the unstated obligations of competency. The identification of the requirements for competency provides a framework for determining when an appraiser is competent for an assignment.

Review Appraisal

- The requirements for review appraisal have been entirely rewritten. The revisions
 - i. separate and expand the development and reporting requirements;
 - ii. create a more logical and comprehensive structure;
 - iii. provide flexibility for the broad and diverse nature of appraisal review; and
 - iv. organize and clarify the requirements that apply to a reviewer providing their own opinion of value, review opinion or consulting conclusion. (Standard 3)
- The new Standard does not change current appraisal review practice

or create new appraisal review requirements.

- **Why this is important:** The requirements for review appraisal were not consistent with the other requirements of USPAP and not always applicable to contemporary appraisal review practice.

In addition to the changes to the Ethics and Competency Rules and Standard 3 outlined above, appraisers are advised to review the Jurisdictional Exception Rule. The extensive changes are intended to improve clarity and understandability, but only a few obligations were created or removed. For more detailed information on the changes to USPAP, visit The Appraisal Foundation Web site at www.appraisalfoundation.org.

(This article originally appeared in *Valuation* magazine. Copyright 2009. Appraisal Institute. All Rights Reserved.)

4355 copies of this publication were printed by the
South Dakota Real Estate Commission at a cost of
.25 per copy